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10/799,939	03/11/2004	Charles B. Worrick III	8134/Z-03367	8003

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EXAMINER	
MICHALSKI, SEAN M	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CHARLES B. WORRICK, III, KELLY BRIDGES and KEITH A. SWENSON

Appeal 2009-003496
Application 10/799,939
Technology Center 3700

Decided: September 17, 2009

Before: WILLIAM F. PATE, III, JENNIFER D. BAHR and STEFAN STAICOVICI, *Administrative Patent Judges*.

PATE, III, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

Appellants appeal under 35 U.S.C. § 134 from a rejection of claims 1, 3, 7-10, 12, 13, 15, 18-21 and 24-26. App. Br. 2. We have jurisdiction under 35 U.S.C. § 6(b).

The claims are directed to a shaving razor and handle therefor. Claim 1 is illustrative of the claimed subject matter and is reproduced below:

> 1. A handle for a shaving razor, the handle comprising:
>
> a handle casing; and
>
> an interconnect assembly disposed at an end of the handle casing, said interconnect assembly being configured to releasably connect a cartridge to the handle, and including a release button comprising a button substrate and a flexible canopy, comprising an elastomer, extending outwardly from the button substrate toward the handle casing;
>
> the flexible canopy being constructed so that a free edge of the flexible canopy contacts a wall formed by the handle casing when the release button is in an unloaded position, and the flexible canopy buckles when the button substrate is moved towards the cartridge as a user actuates the release button, causing the free edge to move along the wall.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Kirk	US 3,048,673	Aug. 7, 1962
Apprille	US 5,855,071	Jan. 5, 1999
Jones	US 6,898,855 B2	May 31, 2005

Claims 1, 3, 7-10, 13, 15, 18-21, 25 and 26 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Apprille and Kirk. Ans. 3.

Claims 12 and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Apprille, Kirk and Jones. Ans. 7.

OPINION

The Examiner opines that it would have been obvious to one of ordinary skill in the art to incorporate the resilient flange 22 of Kirk into the button of Apprille in order to arrive at the claimed flexible canopy that buckles when the button is moved toward the cartridge. Ans. 4. Firstly, Appellants contend that the resilient flange 22 of Kirk does not buckle during actuation as asserted by the Examiner. App. Br. 4-5. Secondly, Appellants contend that there would be no reason to provide Kirk's resilient flange on Apprille's button. App. Br. 5. We agree with both of Appellant's contentions.

"[T]he PTO applies to the verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in the applicant's specification." *In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997). Buckling would be understood by one of ordinary skill in the art as a type of failure in response to compressive loading. *Cf. e.g.,* Spec. figs 42-43. While the resilient flange 22 of Kirk bends and slides in response to the forces applied by door 26 and panel 11, it does not buckle in response to a compressive load.

The key to supporting any prima facie conclusion of obviousness under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the

claimed invention would have been obvious. The Federal Circuit has stated that "rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006), *cited with approval in KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007). Apprille's button 50 slides along a surface (at 46; col. 6, ll. 29-65) as opposed to being actuated toward it like Kirk's (fig. 3). The Examiner has not articulated any reasoning with a rational underpinning that would support the conclusion that a buckling flexible canopy was an obvious inclusion on the button of Aprille.

For these reasons the Examiner's rejection of claims 1, 3, 7-10, 13, 15, 18-21, 25 and 26 as being unpatentable over Apprille and Kirk cannot be sustained. Since Jones does not cure the noted deficiencies of Apprille and Kirk, the Examiner's rejection of claims 12 and 24 also cannot be sustained.

DECISION

For the above reasons, the Examiner's rejections of claims 1, 3, 7-10, 12, 13, 15, 18-21 and 24-26 are reversed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). See 37 C.F.R. § 1.136(a)(1)(iv) (2007).

REVERSED

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